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IN THE

Supreme Court of the United States

October Term, 1974

No. 73-2016

LUIS ARANDA,

Petitioner,

v.

SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA

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The Petitioner, Luis Aranda, respect-

fully prays that a Writ of Certiorari issue to review the decisions and orders of the Supreme Court of the State of Arizona and the Committee on Examinations and Admissions to the State Bar of Arizona entered in this proceeding on March 12, 1974.

OPINION BELOW

No opinion was rendered by the Supreme Court of the State of Arizona and the Committee on Examinations and Admissions to the State Bar of Arizona.

JURISDICTION

The Orders of the Supreme Court of the State of Arizona were entered on March 12, 1974. Timely petition for rehearing was denied on April 16, 1974, and this Petition for Certiorari was filed within the ninety (90) days of that date. This Court's jurisdiction is invoked under 28 USC §1257(3).

QUESTIONS PRESENTED

1. Whether the administration of the July 1973 Arizona Bar Examination as applied to Petitioner by Respondents was in violation of the statutory scheme of Rule 28(c) VI and VIII, Rules of the Supreme Court, A.R.S. 17A, in violation of Petitioner's Civil Rights, and a violation of the Due Process and Equal Protection Clauses of the United States Constitution, Amendment 14.

2. Whether the application to Petitioner of the December 19, 1973 Order of the Arizona Supreme Court in Cause No. 11339, a part of the certified record, renders the July 1973 Arizona Bar Examination without ascertainable standards and in violation of the 14th Amendment to the United States Constitution.

3. Whether the administrative and judicial review procedures and decisions by Respondents as applied to Petitioner

were in violation of the Due Process and Equal Protection Clauses of the United States Constitution Amendment 14.

STATUTORY PROVISIONS INVOLVED

A.R.S. 17A, Rules of the Arizona Supreme Court:

Rule 28. Examination and Admission; 28(a) Committee on Examinations and Admissions; Powers and Duties.

The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule.... "Rule 28(c), Rules Governing Admission of Applicants to the State Bar of Arizona, as amended. USCA Const. Amend. 14.

STATEMENT OF THE CASE

Petitioner qualified for and was permitted to take the July 1973 Arizona Bar Examination.

The Examination was divided into the Essay, multiple choice, hereinafter re-

ferred to as the Multi State, and Ethics portions administered accordingly by Respondents.

By statute, Rule 28(c) Paragraph VIII, Rules of the Supreme Court, A.R.S. 17A, the Essay and Ethics portion require, each, a score of Seventy (70) to pass successfully.

However, the Multi State portion was not provided for in the Statute nor was the Statute amended. Also, Respondents applied a complex grading scheme that in effect combined the Essay score and the Multi State score to form still a third score which determined whether the applicant passed, i.e. Seventy (70) on the Essay plus One Hundred Eighteen (118) on the Multi State. However, such a grading scheme is inconsistent with the grading scheme required by Rule 28(c) VIII.

Twenty-one (21) applicants whose Essay score fell below the required Seventy (70) and as low as Sixty-seven point

seven (67.7) pursuant to Rule 28(c) VIII, were admitted to the State Bar of Arizona.

Eleven (11) applicants whose Multi State score fell below the required One Hundred Eighteen (118) and as low as One Hundred (100) were admitted to the State Bar of Arizona.

Petitioner, scored a Sixty-nine point four (69.4) on the Essay and One Hundred Seven (107) on the Multi-State portion, equal to and well above the Essay score of many of the twenty one (21) applicants and eleven (11) Multi State applicants which were admitted to the State Bar of Arizona. However, Petitioner was denied admission to the State Bar. Petitioner was also awarded a failing grade in the Ethics portion and denied the right to retake the Ethics exam as provided to other applicants pursuant to Rule 28(c) Paragraph VIII, Rules of the Supreme Court, A.R.S. 17A. Petitioner disputes his Ethics grade also.

(Page 3, Reply to Motion to Dismiss, SB47 Exhibit "D" attached thereto.)

Petitioner, pursuant to Rule 28(c) XII(E) PROCEEDINGS UPON FAILURE TO RECEIVE SATISFACTORY GRADE, filed a timely Petition to secure model answers to all questions, Petitioner's questions and answers to each portion of the examination in order to comply with the requirement of reviewing all questions and answers and seek review within the twenty (20) day time period of this Statute.

Respondents provided Petitioner with copies of his questions and answers to the Essay and Ethics examination but refused to provide copies of:

1. Petitioner's questions and answers to the Multi State (multiple choice examination);

2. Model answers for any of the questions.

Petitioner filed a timely Petition for

Special Action with the State Supreme Court, Cause No. 11339, seeking the relief denied him by Respondents. Pursuant to case law, Petitioner sought additional relief charging multiple violations of the Arizona Statute and Constitution, Petitioner's Civil Rights, Federal law and the United States Constitution Amendment 14; discovery and assignment of the case to a Master for proper findings.

The Arizona Supreme Court without written findings on the merits, without an opinion, dismissed the Civil Rights and Federal Law allegations and subsequently on November 7, 1973, ordered further response from the Committee regarding the denial of Petitioner's questions and answers to the Multi State.

Subsequently, on December 19, 1973, the following Order was issued by the Arizona Supreme Court:

"IT IS ORDERED that the Supreme Court

Committee on Examinations and Admissions certify to the Supreme Court for admission to the State Bar of Arizona, the names of all applicants not heretofore admitted to practice who have attained passing grades on the Essay and Legal Ethics portions of the Bar Examination given July 25, 26 and 27, 1973."

Now therefore,

"IT IS ORDERED: Petition for Review by the Supreme Court - DENIED."

Highly germane, is that the aforementioned Order is silent as to minimum passing score required for the Essay regardless of Rule 28(c) VIII since twenty-one (21) applicants scored well below Seventy (70) on the Essay and as low as Sixty-seven point seven (67.7) and were already admitted solely because of the Multi State score.

The effect of the Order of December 19, 1973, is still unknown. Moreover, the

December 19, 1973 Order allowed admission of Eleven (11) additional applicants, all whose Essay score was Seventy (70) or above yet had a Multi State score below One Hundred Eighteen (118) and below Petitioner's score of One Hundred Seven (107).

Petitioner requested equal treatment under the law by letter dated December 21, 1973, as Petitioner's Essay score was equal to and well above a substantial number of applicants heretofore admitted and if the Multi State was still in effect, Petitioner's score of One Hundred Seven (107) exceeded the scores of some of the applicants admitted pursuant to the December 19, 1973 Order.

The Respondents summarily denied Petitioner's request for equal treatment. The Arizona Supreme Court, by the December 19, 1973 Order also dismissed the Petition for Review of Petitioner's Examination.

On December 26, 1973, Respondents

notified Petitioner by letter that review of his examination papers was under consideration by the Committee.

On December 30, 1973, Respondents notified Petitioner by letter that upon review of the Examination papers pursuant to the Petition for Review filed in September, 1973, with the Committee, the Committee had concluded that the grading was fair and the failure of Petitioner was confirmed.

Petitioner sought relief from the action of the Committee by way of Special Action and Petition for Review on February 15 and February 19, 1974, respectively, on the grounds of denial of Due Process and Equal Protection Clauses of the Arizona Constitution and the United States Constitution Amendment 14.

The Special Action and Petition for Review was denied.

Motion for Rehearing of Petition for

Review before the Arizona Supreme Court was denied on April 16, 1974.

A request for certification that the federal constitutional issues and federal laws were timely raised, decided adversely against Petitioner and requested as a priliminary step towards a Petition for Certiorari to the United States Supreme Court was denied on May 7, 1974.

Note that the various and sundry denials of admission to the Arizona Bar; the denial of access to Petitioner's questions and answers to the Multi State; the denial of access to any model answers; the inconsistent grading standards as applied to Petitioner; the futile exhaustion of administrative and judicial remedies at the state level all were without benefit of discovery, written findings or written opinion. The manner in which the July 1973 Arizona Bar Examination results were applied to Petitioner is without a rational

basis and cannot be reconciled with the Due Process and Equal Protection Clauses of the 14th Amendment of the United States Constitution.

REASONS FOR GRANTING THE WRIT THE DECISION RAISES SIGNIFICANT AND RECURRING PROBLEMS CONCERNING THE CONSTITUTIONAL GUARANTEES OF THE 14th AMENDMENT.

The State Court's decision in this case reflects important statutory and policy considerations growing out of a bona fide effort to apply a regulatory scheme in the public interest.

There are compelling reasons why some definite guidelines in the application of the regulatory scheme to State Bar applicants should now be marked by this Court. Efforts to ignore the limitations on state action imposed by the 14th Amendment are of common, if not increasing occurrences.

Petitioner and State Courts urgently need the assistance of this Court in under-

standing the policies and the restriction of the 14th Amendment on state action in Bar admissions. Among the unanswered questions thus posed are:

1. In bar admission cases should the only concern be with grounds which justify denial of a license to practice law or only with what due process requires if the license to practice law is to be withheld and the decision to withhold the license is properly and timely challanged? (Is a Bar applicant entitled to Due Process and Equal Protection?)

It has been assumed that a state cannot exclude a person from the practice of law or from any other occupation in a maner or for reasons that contravene the Due Process and Equal Protection Clauses of the 14th Amendment, Willner vs. Committee on Character, 373 US 96 (1963); Schware vs. Board of Examiners, 353 US 232 (1957).

But the assumption is undermined by

the fact that Due Process had been rendered "largely ineffective" in seeking a lawful hearing and review by the proper authorities and the highest court in Arizona as epitomized by the uniform line of decisions denying relief to Petitioner and others similarly situated following the July 1973 Bar Examination in Arizona and refusal to determine the constitutional issues raised.

2. To what extent is procedural due process and equal protection relevent to the application of the regulatory scheme of bar admissions provided by the various states?

This court has consistently held that due process must be met before a state can exclude a person from the practice of law, Schware vs. Board of Examiners, 353 US 232 (1957); Willner vs. Committee on Character, 373 US 96 (1963), respectively.

However, various states have inconsistent answers to the aforementioned estab-

lished principle of due process. Alaska, in Re Application of Peterson, 459 P2d 703 (1969), has held that for an applicant who has been failed on a Bar admission examination and who seeks a hearing and review, due process requires that the applicant must sufficiently in advance of the appellate hearing be given access to the examination questions, his answers thereto, the model answers and an adequate sampling of both passing and failing examination papers. Yet, a substantial and significant number of states do not permit a bar applicant who has been failed to review his papers, either with or without the person who graded the paper or wrote the particular question, 1974 Study by the Committee on Examinations and Admissions to the State Bar of Arizona presented to the Arizona Supreme Court. Often there is no right to appeal a failing grade; no right to receive information as to subject areas

passed and failed; arbitrary limitation on the number of times one may sit for the examination and in many instances, one is required to return to law school to take a specified number of subject hours with no indication as to where one's weakness lies; New Mexico, Maryland and Virginia have such "back to school" requirements; California and Arizona (as of January 1974) have very limited review procedures as aforementioned.

Moreover, great doubt exists that the examinations are professionally developed by persons expert in techniques of test construction. It has not been demonstrated by any state that there exists a demonstrable relationship between successful performance on the bar examinations and successful performance of the myriad functions in the practice of law. Griggs v. Duke Power, 401 US 424 (1971); Chance v. Board of Examiners, 458 F2d 1167 (1972);

Larry P. v. Wilson Riles, 343 P2d 1306 (1972).

The time has come for this Court to give effect to the right of applicants to the Bar to equal treatment and due process not only in name but in fact.

3. To what extent should the desire to allow states to regulate the bar admissions within their boundaries affect the constitutional guarantees of the 14th Amendment?

Clearly state courts have felt that the historic policy of allowing states to regulate bar admissions within their own borders justified their interpretation of due process.

On the other hand, Arizona, as have other states, has taken a very narrow interpretation of procedural due process and equal protection as demonstrated by the case at bar and which this Court may properly correct. A reconciliation of the

divergent interpretation of due process to bar admission challenges presently exists and needs attention and resolution by this Court.

Such common practices of denying or limiting procedural due process in challenging bar admission procedures underscores the desirability of a thorough examination of the problem by this Court so that litigants and state courts may properly guage what is permissible and impermissible under the Equal Protection and Due Process Clause of the United States Constitution Amendment 14.

Finally, the correctness of the decision of the Supreme Court of Arizona, even assuming the propriety of the July 1973 Bar Examination portions employed, is open to serious question. The record shows quite clearly that the July 1973 Arizona Bar Examination was administered inconsistently with the Arizona Rule 28, Rules of

the Supreme Court, A.R.S. 17A; that Petitioner objected timely and properly raised the 14th Amendment issues; that Respondents denied relief without allowing Petitioner access to portions of the Examination, without discovery, without written findings without written opinions and with inconsistent standards.

The refusal of the Arizona Supreme Court to respect the facts and the action of that Court in reviewing the record de novo and denying relief cannot be justified, see Schware vs. Board of Examiners and Willner vs. Board of Character and State vs. Birmingham, 95 Ariz. 310; 390 P.2d 103 (1964). Moreover, the issues presented are justiciable since the claim of present right to admission to the Arizona Bar and the denial of that right is a controversy, see In re Summers, 325 US 561, 568, (1945).

CONCLUSION

For the foregoing reasons, a Writ of Certiorari should issue to review the decision of the Arizona Supreme Court.

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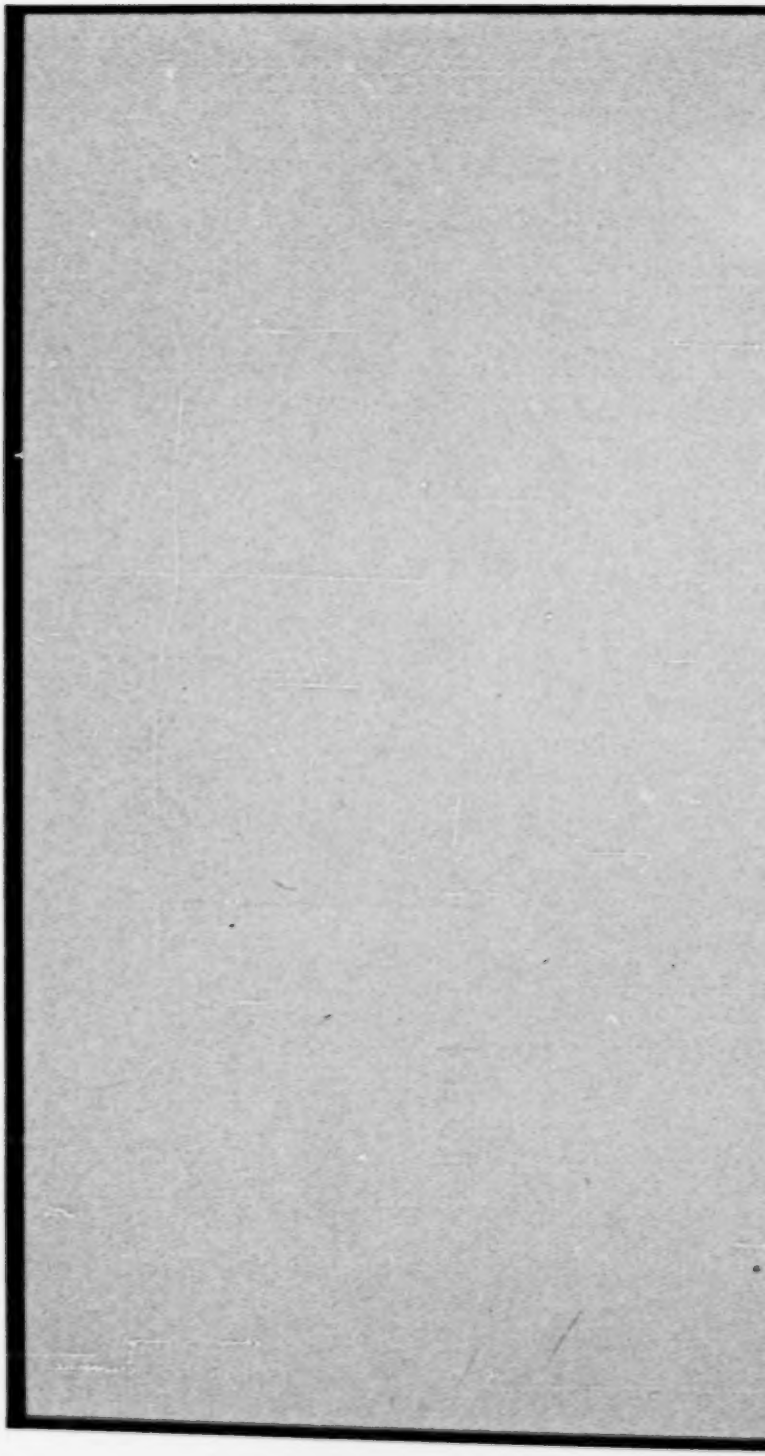
July, 1974



Rule 27(k) RULES OF THE SUPREME COURT

ney upon suspension or disbarment in accordance with the provisions of Rule 37(g).

Amended Jan. 29, 1971, effective April 1, 1971; amended Jan. 23, 1973, effective Feb. 1, 1973.

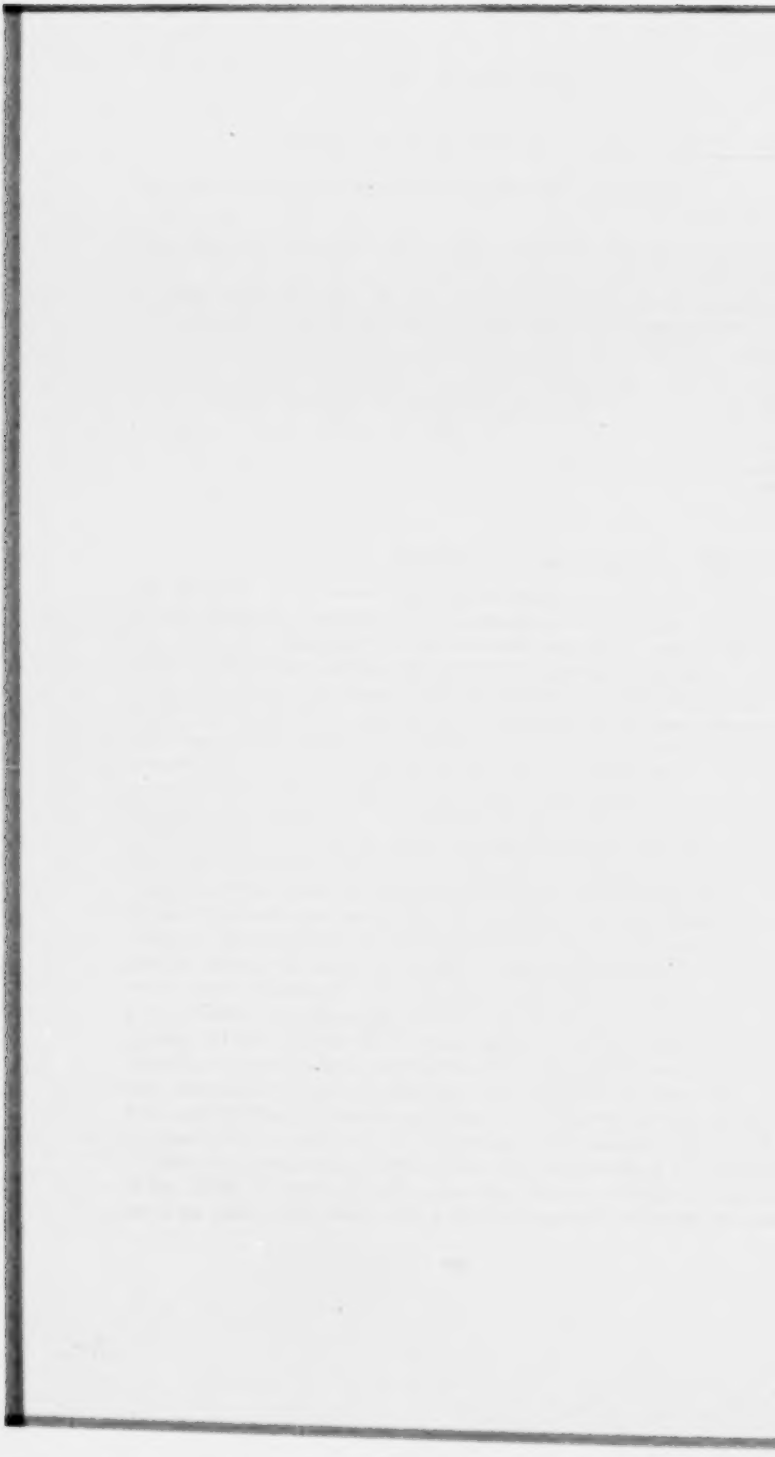
Promulgated as Rule 27(f); amended Jan. 29, 1971, effective April 1, 1971; renumbered to Rule 27(k) and amended Jan. 23, 1973, effective Feb. 1, 1973.

Historical Note

Source:
Rules Sup.Ct., Rule I, C. '39.
Supp. '52.

Rule 28. Examination and Admission

28(a) **Committee on examinations and admissions; powers and duties.** The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purpose, a committee on examinations and admissions consisting of seven active members of the state bar shall be appointed by this court upon the recommendation of the board of governors of the state bar which shall recommend at least three members of the state bar for each appointment to be made. Upon the effective date of the amendment of this rule, the court shall make appointments to the committee on examinations and admissions as follows: That person most recently appointed to the committee shall be reappointed for a term of four years and in order of inverse seniority on the committee, the next three existing members shall be reappointed for terms of three years, two years and one year, respectively, and three new members shall be appointed, one for a term of seven years, one for a term of six years and one for a term of five years. Thereafter, upon the expiration of a member's term, the court shall appoint a new member to serve for a term of seven years. In the event of a resignation or inability of a committee member to serve, the court shall appoint another person to serve the unexpired term. The committee shall examine applicants and recommend to this court for admission to practice applicants who are found by the committee to have the necessary qualifications and to fulfill the requirements prescribed by the rules of the board of governors as approved by this court respecting examinations and admissions heretofore adopted and made effective May 25, 1948, and as amended effective February 1, 1954, and such other rules as here-



after may be adopted. The court will then consider the recommendations and either grant or deny admission.

Amended, effective Sept. 15, 1970.

Historical Note

Source:
Rules Sup.Ct., Rule I, C. '39.
Supp. '72.

Cross References

Definitions, generally, see Rule 27(b).
Reinstatement, written examination not required on, see Rule 43.

Notes of Decisions

In general 1
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Committee 3
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Nature of right to practice 5
Parties 7
Power of court 2

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1. In general

Applicant for admission to state bar was protected by First Amendment from being required to answer question concerning whether she had ever been a member of the Communist Party or any organization that advocates overthrow of United States government by force or violence, and it was error to refuse to process her application and not admit her to bar where record was barren of anything tending to show that applicant was not morally and professionally fit. (Per Mr. Justice Black with three Justices concurring and one Justice concurring in the result.) Baird v. State Bar of Ariz. (1971) 91 S.Ct. 702, 401 U.S. 1, 27 L.Ed.2d 639.

In Arizona, it is perjury punishable as a felony to answer bar committee's questions falsely. (Per Mr. Justice Black with three Justices concurring and one Justice concurring in the result.) Id.

When state seeks to inquire about an individual's beliefs and associations, a heavy burden lies upon it to show that inquiry is necessary to protect a legitimate state interest. (Per Mr. Justice Black with three Justices concurring and one Justice concurring in the result.) Id.

State's power to make inquiries about a person's beliefs or associations is limited by the First Amendment. (Per Mr. Justice Black with three Justices concurring and one Justice concurring in the result.) Id.

This rule pertaining to Admission of Applicants to the State Bar of Arizona requiring graduation from an accredited law school was not arbitrary, capricious and unreasonable. Hackin v. Lockwood (C.A.1966) 361 F.2d 499, certiorari denied 87 S.Ct. 396, 385 U.S. 960, 17 L.Ed.2d 305.

The Legislature may prescribe minimum qualifications which must be possessed by attorneys and courts will require all applicants for admission to the bar to comply with the legislative conditions. In re Greer (1938) 52 Ariz. 385, 81 P.2d 90.

2. Power of court

Ultimate responsibility for the admittance to the practice of law lies in the members of the Supreme Court. Application of Levine (1965) 97 Ariz. 88, 397 P.2d 205.

Legislature may impose additional restrictions which affect licensing of attorneys but cannot infringe upon ulti-

Note 6

ports not revealed to applicant. Application of Burke (1960) 87 Ariz. 336, 351 P.2d 169.

7. Parties

State Bar of Arizona which lacked authority to promulgate or change rules governing admission to practice in Arizona was not an appropriate party to suit to enjoin application of requirement that applicant be graduate of accredited school before taking Arizona bar examination. Hackin v. Lockwood (C.A.1966) 361 F.2d 499, certiorari denied 87 S.Ct. 396, 385 U.S. 960, 17 L.Ed.2d 305.

28(b) Power of court to revoke or suspend license. Nothing contained in this Rule shall be considered as a limitation upon the power and authority of this court upon petition of the committee on examinations and admissions or the board of governors or other proper body or person, or on its own motion, to revoke or suspend, after due notice and hearing, the right of an attorney to practice law in this state for fraud or material misrepresentation in the procurement of admission to practice.

Historical Note

Source:

Rules Sup.Ct., Rule I, C. '39.
Supp. '52.

Cross References

Hearing and notice, see Rule 33.

28(c) Rules governing admission of applicants to the state bar of Arizona, as amended.

I

No person shall practice law in the State of Arizona without being admitted to the Bar by compliance with the following rules, provided that an attorney practicing in another state or territory of the United States or the District of Columbia may be permitted by any Court on motion to be associated with local counsel in the trial of any particular action, subject to such local rules as such Court may then have promulgated.

II

Except as hereinafter provided in Rule X any person desiring to be admitted to the practice of law in the State of Arizona must file with the Secretary of the Committee on Examinations and Admissions,

hereinafter called "Committee," at the office of the State Bar of Arizona, a written application in substantially the following form:

Application for Examination

To the Committee on Examinations and Admissions of the Supreme Court of Arizona:

I, _____, hereby apply for permission to take the examination to be given in the month of _____ (February or July) of the year 19____.

I am _____ years of age.

I am, or at the time of the examination for which this application is made, I will be an actual and bona fide resident of the State of Arizona, and have been or will have been such resident since the _____ day of _____ 19____, residing at _____ (alone) (with my family consisting of _____). (In case the application is based upon the residence attendance at the College of Law of the University of Arizona or of the College of Law of Arizona State University for the two semesters provided by subdivision 2 of Rule IV, there should be inserted in lieu of the foregoing statement of bona fide residence the facts showing the residence attendance at the College of Law of the University of Arizona or of the College of Law of Arizona State University required by Rule IV. In such cases the applicant's address at the University of Arizona or Arizona State University and his permanent home address should be given.)

I graduated or will graduate from the _____ Law School, at _____, on the _____ day of _____ 19____.

I am mentally and physically able to engage in active and continuous practice of the law. (If not, state extent of disability.) _____.

The following are the names, and addresses of persons by whom the foregoing statements may be verified: _____

I have never been charged with or convicted of any felony or of any misdemeanor involving moral turpitude, except the following: _____

My good moral character will be vouched for by _____, whose occupation is _____, and whose address is _____; by _____ whose occupation is _____, and whose

address is _____; and by _____, whose occupation is _____, and whose address is _____.

As a part of this application I (file herewith) (have heretofore filed) my Applicant's Questionnaire and Affidavit.

I agree that I will on the day the examination begins file a further statement on the form to be supplied by the Committee at the time of the notification of the time and place of the giving of the examination of any material changes in or additions to the answers to the Applicant's Questionnaire and Affidavit which have occurred between the date of the filing of said Applicant's Questionnaire and Affidavit and the date of the examination.

Dated this _____ day of _____, 19____.

_____

III

A. The following papers must accompany every application:

1. If the applicant is not a native born citizen of the United States, evidence of naturalization satisfactory to the Committee.

2. Subject to the exception made and provided for in Rule IV(6), the applicant's law school diploma, or other evidence satisfactory to the Committee showing that he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation.

3. If the applicant has been previously admitted to practice in any other State or Territory or the District of Columbia, the certificate of the officer having custody of the roll of attorneys in such State, Territory or District that the applicant is in good standing.

4. If the applicant has been previously admitted to practice in any other State or Territory or the District of Columbia in which there is an organized bar association, of which he now is or ever has been a member, a certificate from the bar association in such State, Territory or District that he is an attorney in good standing or a statement of the reasons why he is not in good standing. If there is no such association where applicant has previously practiced, applicant shall furnish an affidavit to that effect. If there is such an association and applicant has never become a member, his affidavit shall so state and give the reason therefor.

5. An examination fee of One Hundred Dollars ($100.00).

6. Unless the applicant has been an actual bona fide resident of Arizona for at least five (5) years immediately preceding his application, or has engaged in the resident study of law at the College of Law of the University of Arizona or of the College of Law of Arizona State University for two (2) semesters immediately preceding the examination, the applicant must pay, in addition to the above required fee of One Hundred Dollars ($100.00), a registration and investigation fee of One Hundred Twenty-Five Dollars ($125.00). Notwithstanding the foregoing provisions, an applicant who has been admitted to practice law in any other state or states at any time shall pay the additional investigation fee regardless of length of residence in Arizona or resident study at the College of Law of the University of Arizona or of the College of Law of Arizona State University. Applicants domiciled and remaining domiciled in Arizona shall be considered bona fide residents of Arizona while attending a law school without the state, provided such applicant applies for and writes the first examination after graduation from law school or the next ensuing examination, if such applicant is unable, reasonably, to write such first examination or shall write and fail such first examination.

7. Certificate of a physician licensed to practice in Arizona that the applicant is mentally and physically able to engage in the active and continuous practice of law.

B. At a time within twenty (20) days preceding the date of the examination applied for, applicant shall file with the Committee letters from three disinterested residents of Arizona verifying the fact that applicant has been a resident of the state during the prescribed period. Each letter should state the place, or places, of residence of the applicant during the period, to be based upon the knowledge of the writer of the letter; and the writer should give his address or addresses during the same period.

IV

The committee shall consider and act upon the application within six months after it is filed, unless the time therefor is extended by an order of the Supreme Court. The mere filing of an application does not entitle the applicant to be examined by the Committee. No applicant will be examined until his application has been considered and acted upon and permission granted by the Committee to take such

examination. No such permission will be granted until it is established to the satisfaction of the Committee:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years;

2. (a) That he is and will have been continuously an actual and bona fide resident of the State of Arizona for three months immediately prior to the first day of the month of the examination applied for and shall have been physically present within the state of Arizona for at least 75% of the said three month period; or

(b) That he is a graduate of the College of Law of the University of Arizona or of the College of Law of Arizona State University and has been in residence attendance at such College of Law for two (2) semesters immediately preceding the examination applied for; provided, however, that an applicant for re-examination who qualified originally to take the examination pursuant to the above provisions of Rule IV 2(b) and who has failed such examination, has withdrawn his application or failed to complete such examination, shall be entitled to such exemption from the residence requirements of these rules by reason of attendance at and graduation from the College of Law of either the University of Arizona or Arizona State University only with respect to the next ensuing examination and not thereafter; or

(c) That he is a graduate of the College of Law of the University of Arizona or of the College of Law of Arizona State University who entered military or naval service within one year after graduation and who has applied for and will take the examination within one year after discharge from such military or naval service; or

(d) That he is and will have been continuously an actual and bona fide resident of Arizona for a period of more than one year immediately prior to the first day of the month of the examination applied for, but has or will have been physically absent from the state of Arizona for more than 25% of the last three months of such period because of attending school in another state, or because of military or naval service, or because of other reasons deemed substantial by the Committee;

3. That he is a citizen of the United States;

4. That he is of good moral character;

5. That he is mentally and physically able to engage in active and continuous practice of law;

6. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five years of the last seven years prior to his application for admission to practice in Arizona;

7. That, if admitted to practice in any other state or states, he is in good standing in every such state.

V

Before acting upon any application the Committee will require the applicant to file with the Committee applicant's questionnaire and affidavit, which is set forth in Exhibit A hereto attached. This shall be on the printed form which will be furnished by the Committee. The applicant's questionnaire and affidavit must be accompanied by (1) the fingerprints of the applicant taken in an approved manner and certified by a municipal police department, a sheriff's office, or other recognized authority acceptable to the Committee, and (2) a dull finish photograph of the applicant's head, neck and shoulders, not larger than 4 inches by 4 inches nor smaller than 3 inches by 3 inches, taken within six months prior to filing with the Committee.

All of the documents required to be filed by the applicant (except law school diploma in the case of law school graduates who have graduated immediately prior to the examination to be taken) must be filed and any required registration fee paid not later than the first day of October if the application is for the following February examination and not later than the first day of March if the application is for the following July examination; provided, however, that the Committee may, in its discretion and for good cause shown, entertain and act upon an application, accompanied by said documents and registration fee, if filed within a reasonable time subsequent to the applicable filing date and the Committee finds that its investigation of the fitness of the applicant to practice law is not unreasonably impaired by such late filing.

After said applicant's questionnaire and affidavit, fully answered under oath, is filed, the Committee will make such investigation as it deems proper for the purpose of determining whether or not the applicant possesses the qualifications specified in Rule IV. Such investigation will ordinarily require not less than ninety (90) days. As a part of such investigation, the applicant himself may be required to appear before the Committee for a personal interview.

When an application has been acted upon by the Committee, the Secretary will promptly notify the applicant whether he has or has not been granted permission to take the desired examination. If such permission is granted, the Secretary will also notify the applicant of the time and place of such examination.

VI

Two examinations will be held each year: one in February and one in July, at either Tempe, Arizona, or Tucson, Arizona, or at both of said locations, in the discretion of the Committee. Applicants to whom permission to take the examination is granted will be advised of the exact date and place not less than two (2) weeks before the examination.

VII

Examinations will be upon the following subjects: Contracts, Torts, Criminal Law, Equity, Agency-Partnership, Wills and Administration, Professional Responsibilities, Pleading and Procedure, Constitutional Law, Evidence, Private Corporations (including State and Federal regulations regarding issuance and sale of corporate stock), Property (including Real and Personal Property, Community Property Laws and the Uniform Commercial Code in relation to property law), Trusts, Federal Income Tax, Conflict of Laws.

VIII

The semi-annual examinations in February and July shall be in writing. All applicants who receive a grade of seventy or more in the general examination (all subjects except professional ethics) and who also receive a grade of seventy or more in professional ethics and who are found to be otherwise qualified under these rules shall be recommended for admission to the Bar.

The examination in the subject "Professional Ethics" shall consist of not less than five questions in professional ethics. The examination in professional ethics may be given as a part of the regular semi-annual examination but the questions shall be graded separately from the questions given in the general examination. The grades received by each examinee in the general examination shall be determined and computed without reference to or inclusion of the professional ethics questions and grades. All applicants who receive a grade of seventy or more in the general examination and also a grade of seventy or more in the ethics examination shall be recommended for admission to the

Bar. Applicants who have received a grade of seventy or more in the general examination but who fail to receive a grade of seventy or more in professional ethics shall not be recommended for admission to the Bar. Any applicant who is otherwise qualified to be recommended for admission to the Bar except by reason of failure to pass satisfactorily the examination in "Professional Ethics" shall be eligible for re-examination in the subject "Professional Ethics". Such re-examination shall be conducted by the Committee within not less than thirty nor more than sixty days after the grades for the examination have been announced by the Committee, at a time and place to be fixed by the Committee and may be oral or written or both. The applicant shall be given prompt notification of the time and place of such re-examination which may be conducted by one or more Committee members but a majority thereof must concur in the determination as to whether or not the applicant has passed or failed the re-examination. The re-examination in "Professional Ethics" hereby permitted shall be considered as a part of the prior examination for the purpose of determining that the applicant qualifies pursuant to the provisions for admission. If, upon such re-examination the applicant receives a satisfactory grade in the subject "Professional Ethics" and is found by the Committee to have continued otherwise qualified to be recommended for admission to the Bar, such applicant shall thereupon be so recommended. Any applicant who fails to receive a satisfactory grade upon such re-examination shall be required to re-apply for permission to take a further examination and shall be examined in all subjects upon which the Committee then examines applicants.

IX

An applicant failing to pass one (1) examination may apply for permission to take two (2) subsequent examinations. Such application must be in the form specified by Rule II, shall be accompanied by a Treasurer's receipt for the examination fee of One Hundred Dollars ($100.00) due for such examination and such of the papers specified in Rule III as the Committee may request, and if required by the Committee, by the payment of such additional investigation fee as the Committee may determine is reasonably required to properly investigate the qualifications of such applicant.

An applicant who has filed for permission to write an examination and to be admitted to the State Bar of the State of Arizona and who withdraws such application or who fails to appear for or complete such examination and who desires to be admitted to a subsequent

examination, shall make the same filings as if such applicant had written and failed the examination applied for; provided, however, that any applicant who fails an examination, withdraws from an examination, fails to complete an examination or does not appear for and write an examination, and who does not apply for and write the next succeeding examination, shall, if applying for any subsequent examination, file a new application with fees required for an original filing as if such applicant had never theretofore presented an application to the Committee. The Committee, in its discretion, may allow such subsequent applicant access to the file previously made upon the previous application of such applicant for the purpose of removing therefrom and incorporating in a new application such papers and related matters as may be appropriately made a part of a new application. No such papers or related matters may be incorporated in the new application by reference to a previously filed application.

An applicant who shall have been denied permission to take an examination, or who shall have taken an examination conditionally, and shall have been denied admission by reason of the failure of such applicant to meet the standards required by subdivision 4 or 5 of Rule IV, shall be permitted to make further application only upon the prior authorization of the Committee upon a finding by the Committee that such applicant is then no longer disqualified and in the event such permission shall be granted, he shall be required to make such application, file such other papers, pay fees, and take the examination in the same manner as if it were his first application.

An applicant taking and failing the examination three (3) times will not be permitted to take further examinations, except upon written application to the Committee stating the additional study and preparation which such applicant has made to qualify for such further examination. If the Committee finds that there is reasonable cause to believe the applicant may successfully write a further examination it shall grant permission to write the additional examination or examinations.

X

Upon recommendation of the Dean of the College of Law of the University of Arizona or of the College of Law of Arizona State University or as to such Dean, upon recommendation of the President of such University, a full time professor of such College of Law who has been employed by such University as such professor for at least two

(2) complete scholastic years or who is serving as the Dean of such College of Law, may apply for admission to practice law in the State of Arizona without examination by the Committee on Examinations and Admissions. Such applicant shall be required to pay a fee of One Hundred Twenty-Five Dollars ($125.00) and to file an application with the Committee containing information relative to his or her educational and professional background and moral character. The Committee may require such information from any such applicant as it is authorized to require of any applicant not within the exception made by this Rule and may make such investigations, conduct such hearings and otherwise process said application as if made pursuant to the provisions of the foregoing Rules governing application for admission by examination.

If after such investigation as the Committee may deem appropriate, it concludes that such applicant possesses the moral qualities and the intellectual attainments required of all other applicants for admission to practice law in the State of Arizona, it shall recommend such applicant for admission to practice and if said recommendation is accepted by the Supreme Court of the State of Arizona, said applicant shall be admitted to practice and enrolled as a member of the State Bar of Arizona with all of the privileges and rights enjoyed by any member of the State Bar of the State of Arizona admitted pursuant to application and admission by examination. The Committee may receive and act upon any such application at any time or in its discretion may require that such applications be received and processed by the Committee at the same time and in the same manner as applications for admission upon examination.

XI

REFUND OF FEES PAID

An applicant who files an application for admission to the State Bar of Arizona with the Committee on Examinations and Admissions and who has paid the fees required by these Rules and thereafter (a) withdraws the application, or (b) fails to appear for the examination applied for, or (c) fails for good cause to complete an examination, shall be entitled to a refund of the fees paid in the following amounts:

1. An applicant who withdraws his application within sixty (60) days from the date such applicant was required to file his application with the Committee by these Rules, shall be entitled to a refund as

follows: a refund of Seventy-Five Dollars ($75.00) of the One Hundred Dollar ($100.00) examination fee paid and a refund of such part of the investigation fee paid, if the applicant paid one, as has not been expended or encumbered by the Committee prior to receipt by the Committee of written notice of withdrawal. All requests of an applicant to withdraw an application shall be in writing.

2. An applicant who withdraws his application more than sixty (60) days after the date when such application is required to be filed by these Rules, or who fails to appear for the examination, shall be entitled to a refund as follows: a refund of Fifty Dollars ($50.00) of the examination fee and such part, if any, of the investigation fee as shall not have been expended or encumbered by the Committee prior to the time of receipt by the Committee of written notice of withdrawal.

3. An applicant who applies for and is granted permission to write an examination and who undertakes to write the examination but who is unable to complete the same for good cause, shall be entitled to a refund as if such applicant had failed to appear for such examination.

XII

RULES GOVERNING PROCEDURE BEFORE THE COMMITTEE

A. Informal hearings and determinations.

In the event additional information is required by the Committee with respect to any applicant to enable the Committee, in its opinion, to complete the findings required before it grants or denies an applicant permission to take an examination, it may hold an informal inquiry upon oral or written notice to such applicant, which notice shall advise the applicant generally of the subject of the inquiry and the time and place thereof. Such informal hearing may be conducted by any member of the Committee as designated by its chairman. Upon request of the applicant or by direction of the Committee such hearing shall be stenographically reported and if the information received upon such inquiry has or is expected to have a material bearing upon any decision of the Committee it shall be so reported and a transcript thereof made a part of the applicant's file.

B. Procedure prior to denial by the committee of permission to write examination. Rejection of application based upon record.

If the Committee finds that an applicant is not qualified for permission to take an examination if such finding is based upon information furnished by applicant or failure of the applicant to furnish information required by the Committee, the Committee shall advise such applicant in writing of the discrepancy in the application and shall allow a reasonable time to the applicant to either supply additional information or to correct, explain or otherwise remedy the defects in such applicant's application and supporting papers and documents as the case may be. Thereafter, if such discrepancies have not been cured and if the reasons for the refusal of the Committee to grant permission to such applicant to take an examination are of record as a part of such applicant's file, the Committee may thereupon deny such permission, stating in writing in the applicant's file its reasons for denying permission to such applicant to take the examination, and shall promptly advise applicant of such denial and the reasons therefor.

C. Inquiry by committee in relation to matters not of record.

If the Committee is unable to make the findings required to grant an applicant permission to take an examination upon the record as made by the applicant or because of information which it has obtained which has not been supplied by applicant or if the Committee for any reason is of the opinion that a formal hearing should be held to complete its investigation of any applicant's qualifications to be admitted to write an examination it may hold such hearing or hearings as may be reasonably required to enable the Committee to pass upon the qualifications of such applicant.

In the event the Committee determines such hearing should be held it shall notify the applicant in writing of such determination and of the time and place such hearing will begin. The notice shall specify with particularity sufficient to advise the applicant generally as to the subject and purpose of the hearing.

D. Formal hearings, subpoena and depositions.

Upon the issuance of the Notice of Hearing hereinbefore provided for, the proceeding thenceforth shall be and be considered a civil matter pending before this Court referred to the Committee on Examinations and Admissions for hearings, findings and decision as

to the right of such applicant to be admitted to the bar examination applied for. Proceedings thereafter shall be styled as follows:

BEFORE THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA

IN THE MATTER OF THE APPLICATION OF _____ TO BE ADMITTED AS A MEMBER OF THE STATE BAR OF THE STATE OF ARIZONA } No. _____

thereafter all of the Rules of Civil Procedure authorizing, relating to and governing depositions in civil proceedings within and outside the state shall become applicable and shall authorize and govern depositions desired either by applicant or by the Committee in connection with said hearing.

Either the Committee or the applicant shall be entitled to have subpoenas (including duces tecum) issued by the Clerk of this Court to require the attendance of witnesses at said hearing and any continuance thereof. The party desiring issuance of such subpoena shall file an application therefor with any Justice of this Court with a brief statement of the reasons for requiring such subpoena accompanied by a form of order authorizing the Clerk of this Court to issue such subpoena and the form thereof for issuance by Clerk.

In the event the Committee by vote of a majority of its members finds that the proposed hearing will be complex, or for other reasons deemed sufficient, the Committee may certify to this court that in its opinion an examiner should be appointed from State Bar members to further investigate and present the evidence bearing upon the issue of the applicant's qualifications to be admitted to the examination applied for, and upon receipt thereof the Chief Justice of this Court, provided he approves the need thereof, shall appoint such an examiner to further investigate said matter and to present all available evidence upon the hearing aforesaid; provided, however, that the foregoing provision shall not be deemed or construed as denying to the applicant the right to be represented by counsel of the applicant's choosing who may represent applicant fully and independently of the duties and responsibilities of such examiner.

E. Conduct of hearings.

One or more members of the Committee shall conduct the hearing, one of whom shall be designated by the chairman as the presiding member, who shall announce all rulings of the Committee which shall be made without a vote of the members unless the applicant shall request a ruling upon any matter by a majority of the members in attendance at the hearing. In the event the entire membership of the Committee shall not be present and participate in all hearings no final decision shall be deliberated or reached by the Committee until a transcript of all hearings shall be available to all members for review of the testimony and evidence received when any member was absent.

After the hearing and any continuance thereof are concluded, the Committee shall promptly convene, as soon as the transcript thereof is available, and reach and announce their findings and decision as to the right of such applicant to be admitted to the examination applied for. The Committee shall find the facts separately from its decision.

REVIEW BY THE SUPREME COURT

An applicant aggrieved by any decision of the Committee

(A) Refusing permission to take an examination upon the record;

(B) Refusing permission to take an examination after hearing;

(C) For any substantial cause other than with respect to a claimed failure to award a satisfactory grade upon an examination;

may within 20 days after such occurrence file a verified petition with this Court for a review. The petition shall succinctly and briefly state the facts which form the basis for the complaint and applicant's reasons for believing this Court should review the decision of the Committee.

A copy of said petition shall be promptly served upon the chairman or some member of the Committee and the Committee shall within 15 days of such service transmit said applicant's file and a response to the petition fully advising this Court as to the Committee's reasons for its decision and admitting or contesting any assertions made by applicant in said petition. Thereupon this Court shall consider the papers so filed together with the petition and response and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of the Com-

mittee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

PROCEEDINGS UPON FAILURE TO RECEIVE SATISFACTORY GRADE

An applicant aggrieved by the failure of the Committee to award said applicant a satisfactory grade upon an examination may proceed as follows:

Such applicant shall within 20 days after results of such examination have been announced file a petition with the Committee styled as hereinbefore provided for other proceedings before the Committee entitled "Petition for Review of Examination Papers of Applicant."

Said application shall be verified by the applicant personally and shall specifically enumerate the questions and answers claimed to have been unfairly graded and the particulars wherein it is claimed the grade awarded by the Committee is unjustified by the merits of the answer. No general claim of unfairness will be entertained by the Committee and any such application which does not particularize and specify the exact and complete particulars of the claimed improper and unfair grading shall be dismissed summarily.

Applicant shall also state under oath that such applicant has reviewed all of the other questions and answers in the entire examination written by said applicant and that judged by the same standards applied in grading the other questions and answers of the applicant, the grade awarded was unfair and did not reasonably represent the credit to which applicant was entitled for the answers to the questions so specified as unfairly graded.

Upon receipt of such application the Committee shall informally review the same and make such review of the applicant's examination papers as the Committee believes to be necessary in order to properly evaluate the fairness of the grades awarded such applicant of which complaint is made. The Committee need not convene as a body for the purpose of such review. If at least three members of the Committee concur in finding that the answers to the questions were not unfairly graded, the Committee shall so advise the applicant and no further review of the examination papers of such applicant shall be required of the Committee. In the event, however, that two members of the Committee are of the opinion that the papers of the applicant were or may have been unfairly graded, such members shall so state in writing with their reasons for such opinion, which reasons shall

be made a part of the review proceeding. If two members of the Committee shall so dissent in writing from the majority decision the applicant may file a petition with this Court for a review of the entire examination of said applicant and this Court shall in its discretion either grant or refuse such review. No such review shall be granted unless the reasons for dissent of two members are stated in writing. Such review if granted shall be based upon the record as made before the Committee and no further proceedings shall be had before this Court except as specifically ordered by this Court.

In the event the Committee by vote of the majority of its members finds the examination was unfairly or improperly graded and that if properly and fairly graded in accordance with the standard used by the Committee in grading the examination generally that such applicant should have been awarded a satisfactory grade, the Committee shall thereupon certify the applicant to this Court with the recommendation that such applicant be admitted to practice in the same manner as if the applicant had been given a satisfactory grade upon the examination.

XIII

These Rules shall be in effect from and after April 1, 1967, and on said date all rules and regulations heretofore in effect shall be and hereby are amended and supplemented in accordance with these rules; provided, however, that the "Applicant's Questionnaire and Affidavit" as heretofore approved by this Court shall not be amended or otherwise changed or abrogated by these amendments and supplements to the present rules.

EXHIBIT A

Instructions to the Applicant

All statements are to be based on your own knowledge, unless the statement is expressly qualified to show the source of your information. Answer all questions and make your answers as specific as possible. If the space for any answer is insufficient, you may complete your answer on a separate attached sheet. Please have the answers typewritten if possible.

Applicant's Questionnaire and Affidavit

1. State:

   (a) Full name.

   Social Security Number:

   (b) Have you ever been known by any other name or surname _____ (Yes or No); if so state all names used and the places and times thereof. If married woman, give maiden name.

   _____

2. Date of birth _____

   Birthplace _____ Age _____

3. State every residence you have had since you were sixteen years of age:

City and State	Street No.	From (Mo. & Yr.)	To (Mo. & Yr.)

   Present Address: _____

4. My education was received as follows:

   (a) High School _____
   Name, Location

   Dates of attendance:

   From _____ To _____

   (b) College or University other than law study

   _____
   Name Location

   Dates of attendance:

   From _____ To _____

   (If you did not attend a college, so state) _____

(c) Law Study:

Law Schools _____

Name, Location

Dates of attendance:

From _____ To _____

_____

Name Location

Dates of attendance:

From _____ To _____

Degrees: _____

Yes or No What Degrees

Law Office Study:

_____

Name of firm or employer Address

Dates: From _____ To _____

_____

Name of firm or employer Address

Dates: From _____ To _____

5. Make a complete statement of your practice of the law since first being admitted to practice in any jurisdiction. Include temporary or part-time work. State as to each employment or period of private practice:

(1) The periods during which you were employed as an attorney, or engaged in private practice, with the dates.

(2) The exact addresses of the offices or places at which you were so employed or engaged and the complete names and present addresses of all such former employers, partners or associates, if any. (If room number of office is known, this should be given. If you shared office space with other lawyers or business firms, please so state and give their full names and present addresses.)

(3) The nature and extent of your duties or practice.

(4) The reason for the termination of each employment or period of private practice.

(1) (2) (3) (4)

_____

_____

6. Make a complete statement of all employments you have had, or business or occupations in which you have been engaged on your own account, since you became sixteen years of age, other than as set forth in question 5. Include temporary or part-time work. State as to each employment, business, or other occupation:

(1) The periods during which you were so employed or engaged with the dates.

(2) The exact addresses of the offices or places at which you were so employed or engaged and the names and present addresses of all such former employers, partners or associates in business, if any.

(3) The position held by you.

(4) The reason for the termination of each employment, business or other occupation.

(1) (2) (3) (4)

Include complete details regarding any service in the armed forces, i. e., dates of service, rank, serial number, locations, last commanding officer, and your last service address complete. If separated from such service, state nature of such separation and, if other than honorable, specify type thereof and circumstances surrounding your release. Give full particulars as to any complaints or disciplinary proceedings against you.

7. Have you ever held any judicial office?

Yes or No

If so, state where, when, and offices held, and if terminated the reasons therefor:

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8. (a) Have you ever held a license, other than as an attorney at law, the procurement of which required proof of good character (i. e., certified public accountant, patent attorney, real estate broker, etc.) _____ _____

Yes or No

As to each license, state the date it was granted, and the name and address of the authority issuing it.

(b) State every application presented and examination taken by you for a license granted by the state or an official position, the procurement of which required proof of good character. (Specify all examinations whether or not you were successful. Specify every application presented including applications for reinstatement and withdrawn applications and whether or not they were granted.) State as to each application the date, the name and address of the authority to whom it was addressed, and the disposition made of it, with the reasons therefor, and as to each examination the result thereof.

9. Name all jurisdictions and courts in which you have been admitted to practice law. Give dates of admission to practice.

(a) Jurisdiction (b) Courts (c) Date of Admission

10. State every application for admission to the bar made by you EXCEPT those covered by your answers to question 9, the disposition made of each such application, and the reasons therefor.

11. Have you registered or taken any other steps looking to taking the examination in any other jurisdiction? _____
Yes or No

If so, give dates and full circumstances. _____

12. Do you intend to take the examination or apply for admission in any other jurisdiction between the date hereof and your admission to the Bar of Arizona, if you qualify? _____
Yes or No

If so, give dates and full circumstances. _____

13. Have you been entitled to practice in each of the locations specified under question 9 and before each court continuously from

the date you first became so entitled until the date hereof? _____ If not, state the dates during which you have
Yes or No
not been so entitled, the nature of the disqualification, the facts, and the name and address of the person or body in possession of the record thereof.

_____

14. Have you been disbarred, suspended from practice, reprimanded, censured or otherwise disciplined or disqualified as an attorney or member of any profession or organization, or holder of any office public or private; or have any complaints or charges, formal or informal, ever been made or filed or proceedings instituted against you? _____
Yes or No
If so, state the dates, the facts, the disposition of the matter, and the name and address of the authority in possession of the record thereof.

_____

15. If you have been previously admitted to the bar, state the exact names and addresses of courts before which your former practice of law was chiefly conducted.

_____
Name Location

16. Have you ever held a bonded position? _____
Yes or No
If so, specify nature of position, dates, amount of bond and whether or not any one ever sought to recover upon your bond or to cancel the same. State facts fully, including the name and address of the bonding company, if any.

_____

17. Were you ever dropped, suspended, or expelled from school or college? _____
Yes or No
If so, state facts fully.

_____

18. Were you at any time in the course of your schooling or elsewhere accused of cheating or plagiarism? _____
Yes or No
Give details. _____

19. (a) Have you ever been a party to or had or claimed any interest in any civil proceeding? _____

Yes or No

(b) Have you ever been charged with, arrested, or questioned regarding, the violation of any law? _____

Yes or No

(c) Have you ever been charged with fraud, formally or informally, in any legal proceeding, civil or criminal, or in bankruptcy? _____

Yes or No

(d) Have you ever been declared a ward of any court? _____

Yes or No

(e) Have you ever been adjudicated an incompetent person, an insane person or a lunatic by any court? _____

Yes or No

(f) Have you ever been adjudicated a bankrupt, or has a petition in bankruptcy been filed at any time by you or against you, either alone or in association with others? Have you ever been brought in as a party to any proceedings in a bankruptcy court; or have you ever been sued or threatened with suit by the receiver, trustee, or other authority of any bankrupt estate, for unlawful preference, conspiracy to conceal assets, or any other fraud or offense, whether punishable by criminal law or not?

_____

Yes or No

Give full details for (a), (b), (c), (d), (e), and (f), including dates, exact name and address of the court if any, case numbers, references to the court records if any, the facts, the disposition of the matter; if no court records are available, give to the best of your ability the names and addresses of all persons involved, including counsel. (Include all such incidents no matter how minor the infraction or whether guilty or not.)

_____

_____

20. Are there any unsatisfied judgments against you? _____

_____

Yes or No

If so, list them, giving names and addresses of creditors, amounts, dates and nature of judgment, and reasons for non-payment.

_____

21. (a) State whether or not you are married. _____

Yes or No

If so, give date of each marriage and full name of spouse prior to that marriage.

(b) State whether or not you have ever been divorced. _____

Yes or No

If so, the name of the spouse from whom divorced, the exact name and address of the court, the case number, the date, the ground of divorce, and by whom suit was brought.

_____

(c) If a divorce suit is pending or a marriage has been annulled, give particulars similar to those requested under (b).

_____

22. State names and addresses of three persons in each locality where you practiced law with whom you are personally acquainted, preferably other than those referred to in your answer to question 5. (If you have not practiced previously, give the same information for each locality in which you have lived.)

Name	Address	Occupation	How long has Known you

23. Give the names and addresses of three attorneys and two clients who know you. These should be other than those supporting your application or named in questions 5 and 22. (If you have not practiced previously, give the names of law school professors, etc.)

Name	Address	Occupation

24. Give the name and location of each bar association of which you are or have ever been a member.

25. List all organizations, associations and clubs (other than Bar associations) of which you are or have been a member since attaining the age of 16 years.

_____

26. Is there any other incident in your career, not hereinbefore referred to, having a bearing upon your character or fitness for admission to the Bar?

_____
Yes or No

If so, give full details.

_____

27. Are you now or have you ever been a member of the Communist Party or any organization that advocates overthrow of the United States Government by force or violence?

_____

I, _____, hereby apply for a character report in connection with my application for admission to practice law in the State of Arizona. I agree to give any further information which may be required in connection with my past record, and consent to having this investigation made and such information as may be received reported to the admitting authority.

I agree that I will not receive a copy of the report, or any information received in connection with this application, and I expressly waive any and all rights I might have or claim to such report, any copy thereof, or to know the contents thereof.

_____
Signature

STATE OF _____ }
COUNTY OF _____ } ss.

_____, being duly sworn, says: I have read the foregoing questions and have answered them fully and frankly. The answers are complete and are true of my own knowledge.

_____
Signature of Applicant

Subscribed and sworn to before me this _____ day of _____, A.D. 19____.

_____

Notary Public

Adopted April 1, 1967; amended, effective Aug. 1, 1970; prior Rules XI and XII renumbered XII and XIII respectively, effective Aug. 1, 1970.

Notes of Decisions

In general 1
Good moral character 2
Review 3

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1. In general

The courts have inherent power to determine what persons may be admitted to the bar. Application of Heaney (1970) 106 Ariz. 391, 476 P.2d 846.

2. Good moral character

Although there was evidence in the record from which to conclude that the applicant displayed poor judgment and lack of maturity which is to be desired in an attorney at law, such display was not sufficient to constitute lack of good moral character. Application of Klahr (1967) 102 Ariz. 529, 433 P.2d 977.

One of the necessary qualifications for admission to the bar is that the applicant possess "good moral character". Id.

A particular case involving the question of whether an applicant for admission to the bar has "good moral character" must be judged on its own merits, and an ad hoc determination in each instance must be made by the court. Id.

3. Review

Supreme Court would accept jurisdiction of petition for review of decision of committee of examinations and admissions dismissing petition for review of bar examination papers, notwithstanding contention that petitioner had not complied with rules providing for review by the Court. Application of Heaney (1970) 106 Ariz. 391, 476 P.2d 846.

Petition filed with committee of examinations and admissions for review of petitioner's bar examination papers was insufficient, where it contained statistical review of petitioner's examination results and general claim of unfairness in manner of grading, rather than setting forth exact and complete particulars of alleged unfairness or improper grading of particular set of examination papers. Id.

28(d) Retention of records of applicants for admission to the state bar of Arizona. The records of applicants for admission to the State Bar of Arizona shall be retained for a period of not less than seven (7) years from the date applicant is admitted to the State Bar of Arizona or not less than seven (7) years from the last activity in the record.

Added, effective July 1, 1967.

AMENDMENT XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The fourteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-ninth Congress, on the 16th of June, 1866. On the 21st of July, 1868, Congress adopted and transmitted to the Department of State a concurrent resolution, declaring that "the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore, Resolved, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." The Secretary of State accordingly issued a proclamation, dated the 28th of July, 1868, declaring that the proposed fourteenth amendment had been ratified, in the manner hereafter mentioned, by the legislatures of thirty of the thirty-six States, viz.: Connecticut, June 30, 1866; New Hampshire, July 7, 1866; Tennessee, July 19, 1866; New Jersey, September 11, 1866, (and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it;) Oregon, September 19, 1866; Vermont, November 9, 1866; Georgia rejected it November 13, 1866, and ratified it July 21, 1868; North Carolina rejected it December 4, 1866, and ratified it July 4, 1868; South Carolina rejected it December 20, 1866, and ratified it July 9, 1868; New York ratified it January 10, 1867; Ohio ratified it January 11, 1867, (and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it;) Illinois ratified it January 15, 1867; West Virginia, January 16, 1867; Kansas, January 18, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Missouri, January 26, 1867; Indiana, January 29, 1867; Minnesota, February 1, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Pennsylvania, February 13, 1867; Michigan, February 15, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868; and Alabama, July 13, 1868. Georgia again ratified the amendment February 2, 1870. Texas rejected it November 1, 1866, and ratified it February 18, 1870. Virginia rejected it January 19, 1867, and ratified October 8, 1869. The amendment was rejected by Kentucky January 10, 1867; by Delaware February 8, 1867; by Maryland March 23, 1867, and was not afterward ratified by either State.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall

bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

The fifteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Fortieth Congress, on the 27th of February, 1869, and was declared, in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States. The dates of these ratifications (arranged in the order of their reception at the Department of State) were: from North Carolina, March 5, 1869; West Virginia, March 3, 1869; Massachusetts, March 9–12, 1869; Wisconsin, March 9, 1869; Maine, March 12, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; South Carolina, March 16, 1869; Pennsylvania, March 26, 1869; Arkansas, March 30, 1869; Connecticut, May 19, 1869; Florida, June 15, 1869; Illinois, March 5, 1869; Indiana, May 13–14, 1869; New York, March 17–April 14, 1869, (and the legislature of the same State passed a resolution January 5, 1870, to withdraw its consent to it;) New Hampshire, July 7, 1869; Nevada, March 1, 1869; Vermont, October 21, 1869; Virginia, October 8, 1869; Missouri, January 10, 1870; Mississippi, January 15–17, 1870; Ohio, January 27, 1870; Iowa, February 3, 1870; Kansas, January 18–19, 1870; Minnesota, February 19, 1870; Rhode Island, January 18, 1870; Nebraska, February 17, 1870; Texas, February 18, 1870. The State of Georgia also ratified the amendment February 2, 1870.

APPENDIX "B"

CLIFFORD H. WARD
CLERK

Supreme Court
STATE OF ARIZONA
Phoenix
85007

MARY ANN NORRIS
DEPUTY CLERK

May 31, 1974

Mr. Michael Rodak, Jr., Clerk
United State Supreme Court
United State Supreme Court Building
Washington, D. C. 20543

RE: LUIS ARANDA v. COMMITTEE ON EXAMINATIONS AND ADMISSIONS FOR THE STATE BAR OF ARIZONA
Supreme Court Nos. 11339, SB-47, SB-47-2

Dear Mr. Rodak:

I am transmitting herewith the record in the possession of the Supreme Court in the above-referenced cause as requested by Luis Aranda, Petitioner.

Very truly yours,

CLIFFORD H. WARD, Clerk

By Mary Ann Norris
Chief Deputy Clerk

pkg
Enclosure

cc: Mr. Luis Aranda
1709 South Jentilly Lane
Tempe, Arizona 85281

Received
6-1-74
LA

CLIFFORD H. WARD
CLERK

Supreme Court
STATE OF ARIZONA
Phoenix
85007

MARY ANN HOPKINS
CHIEF DEPUTY CLERK

May 8, 1974

IN RE: APPLICATION OF

LUIS ARANDA to be admitted

to the State Bar of Arizona

Supreme Court
Nos. SB-47
SB-47-2
11339

The following action was taken by the Supreme Court of the State of Arizona on May 7, 1974 in regard to the above-entitled cause:

"ORDERED: Petition Requesting Certificate - DENIED."

RECEIVED
DePrima, Aranda & de Leon

MAY 10 1974

CLIFFORD H. WARD, Clerk
By Mary Ann Hopkins
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & de Leon,
3443 North Central, Suite 1511, Phoenix 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson,
100 West Washington, Suite 1840, Phoenix 85003
State Bar of Arizona, 858 Security Bldg., Phoenix 85004

blk

CLIFFORD H. WARD
CLERK

Supreme Court
STATE OF ARIZONA
Phoenix
85007

MARY ANN HOPKINS
CHIEF DEPUTY CLERK

April 17, 1974

In the Matter of the Application of

LUIS ARANDA

to be admitted as a member of the State Bar of the State of Arizona.

Supreme Court
No. SB-47-2

RECEIVED
DePrima, Aranda & de Leon
APR 18 1974

The following action was taken by the Supreme Court of the State of Arizona on April 16, 1974 in regard to the above-entitled cause:

"ORDERED: Motion for Rehearing of Petition for Review by the Supreme Court = DENIED.

FURTHER ORDERED: Request for Oral Argument = DENIED."

CLIFFORD H. WARD, Clerk
By Mary Ann Hopkins
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & de Leon,
3443 North Central, Suite 1511, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson,
100 West Washington, Suite 1840, Phoenix, Arizona 85003
State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004

pkg

CLIFFORD H. WARD
CLERK

Supreme Court
STATE OF ARIZONA
Phoenix
85007

MARY ANN HOPKINS
CHIEF DEPUTY CLERK

March 13, 1974

In the Matter of the Application of LUIS ARANDA To be admitted as a member of the State Bar of the State of Arizona.	Supreme Court No. SB-47-2

The following action was taken by the Supreme Court of the State of Arizona on March 12, 1974 in regard to the above-entitled cause:

"ORDERED: Petition for Review by the Supreme Court = DENIED."

CLIFFORD H. WARD, Clerk
By _____ Deputy Clerk

TO: Anthony E. Deprima, Esq., DePrima, Aranda & deLeon, 3443 North Central, Suite 1511, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson, 100 West Washington, Suite 1840, Phoenix, Arizona 85003
State Bar of Arizona 858 Security Building, Phoenix, Arizona 85004

CLIFFORD H. WARD
CLERK

Supreme Court

STATE OF ARIZONA
Phoenix
85007

March 13, 1974

LUIS ARANDA, Petitioner, vs COMMITTEE ON EXAMINATIONS AND ADMISSIONS FOR THE STATE BAR OF ARIZONA, Respondents.	Supreme Court No. SB-47

The following action was taken by the Supreme Court of the State of Arizona on March 12, 1974 in regard to the above-entitled cause:

"ORDERED: Motion of Committee on Examinations and Admissions for the State Bar of Arizona to dismiss Petition for Special Action-GRANTED."

CLIFFORD H. WARD, Clerk
By Mary Ann Hughes
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & de Leon, 3443 North Central, Suite 1511, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson, 1840 First National Bank Plaza, 100 West Washington, Phoenix, Arizona 85003
State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004

pkg

COMMITTEE ON EXAMINATIONS AND ADMISSIONS
SUPREME COURT, STATE OF ARIZONA
234 N. CENTRAL, SUITE 858
PHOENIX, ARIZONA 85004
(602) 252-4804

GEORGE READ CHANDLER, CHAIRMAN
PHOENIX
ROBERT D. MYERS, VICE CHAIRMAN
PHOENIX
H. J. WALKINSHAW
PRESCOTT
JAMES L. RICHMOND
TUCSON
D. THEODORE RUFFNER
TUCSON
RICHARD M. KAPLAN
SAN XAVIER
CHARLES R. HOPPER
PHOENIX

January 30, 1974

Mr. Luis Aranda
1709 S. Jentilly Ln., Apt. 58
Tempe, Arizona 85281

Dear Mr. Aranda:

The Committee on Examinations and Admissions has reviewed the examination papers written by you in July, 1973, pursuant to your Petition for Review of Examination Papers and the Amended Petition for Review.

It is the opinion of this Committee that the grade awarded you was fair and your failure to pass the examination is confirmed.

Very truly yours,

George Read Chandler
Chairman

GRC:do

DAUGHTON FEINSTEIN & WILSON
LAWYERS
1040 FIRST NATIONAL BANK PLAZA
100 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85003

DONALD DAUGHTON
ALLEN L. FEINSTEIN
GUY C. WILSON
ROBLYN MOORE
MICHAEL D. HARDING

December 26, 1973

RECEIVED
DEC 28 1973

Anthony E. DePrima, Esq.
DePrima, Aranda & deLeon
Suite 1511 Financial Center
3443 North Central Avenue
Phoenix, Arizona 85012

Dear Mr. DePrima:

Re: Aranda v. Committee on
Examinations and Admissions
for the State Bar of Arizona
Your file number: 429-DAD73 UC

This will acknowledge receipt of your letter of December 21, 1973. I have discussed it with Read Carlock, Chairman of the committee. The order of the Arizona Supreme Court dated December 19, 1973 does not apply to your client inasmuch as he did not attain a 70 on the essay and legal ethics portion of the July 1973 bar examination. His petition for review of examination papers of applicant is presently under consideration by the committee.

If I can furnish you with any further information, please advise.

Sincerely,

Donald Daughton

Donald Daughton

DD/cc

Supreme Court
STATE OF ARIZONA
Phoenix

DEC 20 1973

85007

December 19, 1973

LUIS ARANDA, Petitioner, vs	)	Supreme Court No. 11339
COMMITTEE ON EXAMINATIONS AND ADMISSION FOR THE STATE BAR OF ARIZONA, The State Bar of Arizona, John Does 1 through 50, Jane Does 1 through 50, Respondents.	)	

The following action was taken by the Supreme Court of the State of Arizona on December 19, 1973 in regard to the above-entitled cause:

The following Order having been entered by the Supreme Court this date,

"IT IS ORDERED that the Supreme Court Committee on Examinations and Admissions certify to the Supreme Court for admission to the State Bar of Arizona, the names of all applicants not heretofore admitted to practice who have attained passing grades on the Essay and Legal Ethics portions of the Bar Examination given July 25, 26 and 27, 1973."

Now therefore,

"IT IS ORDERED: Petition for Review by the Supreme Court - DENIED."

CLIFFORD H. WARD, Clerk

By Mary Ann Dixon
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & DeLeon, Suite 1511, 3443 North Central, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson, Suite 1840, 100 West Washington, Phoenix, Arizona 85003
Committee on Examinations and Admissions, State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004

pkg

CLIFFORD H. WARD
CLERK

Supreme Court

STATE OF ARIZONA
Phoenix
85007

MARY ANN DIXON
CHIEF DEPUTY CLERK

November 7, 1973

LUIS ARANDA,

Petitioner,

vs

COMMITTEE ON EXAMINATIONS AND ADMISSION FOR THE STATE BAR OF ARIZONA, The State Bar of Arizona, John Does 1 through 50, Jane Does 1 through 50,

Respondents.

Supreme Court
No. 11339

The following action was taken by the Supreme Court of the State of Arizona on November 6, 1973 in regard to the above-entitled cause:

"ORDERED: Referring these matters to the Committee on Examinations and Admissions of the State Bar of Arizona for further response specifically setting forth the Committee's position on supplying petitioners with questions and answers on Multistate Bar Examination and method of grading entire examination.

"FURTHER ORDERED: Directing the Committee on Examinations and Admissions to file said response within 30 days from the date hereof."

CLIFFORD H. WARD, Clerk
By Mary Ann Dixon
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & de Leon, Suite 1511, 3443 North Central Avenue, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson, Suite 1840, 100 West Washington, Phoenix, Arizona 85003
Committee on Examinations and Admissions, State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004

CLIFFORD H. WARD
CLERK

Supreme Court

STATE OF ARIZONA
Phoenix
85007

MARY ANN DIXON
CHIEF DEPUTY CLERK

October 31, 1973

LUIS ARANDA, Petitioner, v. COMMITTEE ON EXAMINATIONS AND ADMISSION FOR THE STATE BAR OF ARIZONA, The State Bar of Arizona, John Does 1 through 50, Jane Does 1 through 50, Respondents.	Supreme Court No. 11339

The following action was taken by the Supreme Court of the State of Arizona on October 30, 1973 in regard to the above-entitled cause:

"ORDERED: Motion to Dismiss as to State Bar - GRANTED.

FURTHER ORDERED: Motion to Dismiss Counts Five and Seven - GRANTED.

FURTHER ORDERED: The Court declines to accept jurisdiction of the Petition for Special Action.

FURTHER ORDERED: The petitioner's request to treat this action as a Petition for Review under Rule 28 taken under advisement."

CLIFFORD H. WARD, Clerk

By Mary Ann Dixon
Deputy Clerk

TO: Anthony E. DePrima, Esq., DePrima, Aranda & de Leon, Suite 1511, 3443 North Central Avenue, Phoenix, Arizona 85012
Donald Daughton, Esq., Daughton, Feinstein & Wilson, Suite 1840, 100 West Washington Street, Phoenix, Arizona 85003
Eldon L. Husted, Executive Director, State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004

dkb

CERTIFICATE OF SERVICE

STATE OF ARIZONA)
) ss.
County of Maricopa)

I hereby certify that on this 10th day of July, 1974, three copies of the Petition for Writ of Certiorari were mailed, postage prepaid, to Donald Daughton, 1840 First National Bank Plaza, 100 West Washington Street, Phoenix, Arizona 85003, Counsel for the Respondents. I further certify that all parties required to be served have been served.

/s/ Anthony E. DePrima
Anthony E. DePrima
3443 North Central Avenue
Suite 1511
Phoenix, Arizona 85016
Counsel for Petitioner

AUG 9 197
MICHAEL RODAK, JR.,

In the

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-2016

LOUIS ARANDA,

Petitioner,

vs.

SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA,

Respondents.

Brief in Opposition to Petition for a Writ of Certiorari to the Supreme Court of Arizona and the Committee on Examinations and Admissions to the State Bar of Arizona

DONALD DAUGHTON
DAUGHTON FEINSTEIN & WILSON
1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003

Attorneys for Respondent, Committee on Examinations and Admissions of the Supreme Court of Arizona

N. WARNER LEE
Attorney General
State of Arizona
Capitol Building
Phoenix, Arizona

Attorney for Respondent, Supreme Court of the State of Arizona

BORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

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In the

Supreme Court of the United States

October Term, 1974

No. 73-2016

Louis Aranda,

Petitioner,

vs.

Supreme Court of the State of Arizona and the Committee on Examinations and Admissions to the State Bar of Arizona,

Respondents.

Brief in Opposition to Petition for a Writ of Certiorari to the Supreme Court of Arizona and the Committee on Examinations and Admissions to the State Bar of Arizona

---

OPINION BELOW

On December 18, 1973, and March 12, 1974, Orders were entered by the Supreme Court of Arizona, denying Petitioner's request that he be admitted to the practice of law in the State of Arizona. On April 16, 1974, an Order was entered by the Supreme Court of Arizona, denying Petitioner's Motion for Re-hearing. No written Opinion was issued in connection with any of these Orders.

JURISDICTION

The Respondents do not question the jurisdiction of this Court to issue a Writ of Certiorari to the Supreme Court of the State of Arizona in an appropriate case under Section 1257(3) of Title 28 U.S.C.

The Committee on Examinations and Admissions of the Supreme Court of Arizona (Committee), named by Petitioner as the Committee on Examinations and Admissions to the State Bar of Arizona, is not a proper party to this Petition. Its sole function is to examine applicants and recommend to the Arizona Supreme Court for admission to practice those applicants who are considered by the Committee to have the necessary qualifications and to fulfill the requirements prescribed by Rule 28(c) of the Rules of the Supreme Court of Arizona. The Supreme Court of Arizona has the ultimate responsibility for the admission to the practice of law or the disbarment of a person licensed to practice law. *In re Sullivan,* 64 Ariz. 337, 170 P.2d 614 (1946); *In re Lewkowitz,* 70 Ariz. 325, 220 P.2d 229 (1950); *Application of Levine,* 97 Ariz. 88, 397 P.2d 205 (1965); and Rule 28(a), Rules of the Supreme Court of Arizona.

QUESTIONS PRESENTED

1. Has Petitioner demonstrated that any action on the part of the Supreme Court of the State of Arizona or the Committee on Examinations and Admissions of the Supreme Court of Arizona has in any way deprived him of due process of law or equal protection of the laws in the grading of the examination paper written by him in the bar examination administered by the Committee in July, 1973?

2. Has Petitioner adequately demonstrated that he possesses sufficient knowledge of the law, in the bar examination written by him in July, 1973, to be entitled to be licensed to practice law in the State of Arizona?

STATUTE AND RULES INVOLVED

Rule 28(a) of the Rules of the Supreme Court of the State of Arizona provides in applicable part:

> "The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purpose, a committee on examinations and admissions consisting of seven active members of the state bar shall be appointed by this court upon recommendation of the board of governors of the state bar which shall recommend at least three members of the state bar for each appointment to be made. . . . The committee shall examine applicants and recommend to this Court for admission to practice applicants who are found by the committee to have the necessary qualifications and to fulfill the requirements prescribed by the rules of the board of governors as approved by this court respecting examinations and admissions heretofore adopted and made effective May 25, 1948, and as amended effective February 1, 1954, and such other rules as hereafter may be adopted. The court will then consider the recommendations and either grant or deny admission. Amended, effective Sept. 15, 1970."

Rule 28(a) and 28(c) of the Rules of the Supreme Court of Arizona are printed in full as a part of Appendix A to the Petition for a Writ of Certiorari.

STATEMENT

The clerk of the Supreme Court of the State of Arizona has transmitted to this Court three separate files of Petitions brought by Petitioner in the Supreme Court of Arizona. These are numbered by the Supreme Court of Arizona as SB-47, SB 47-2, and 11339. In addition, the clerk of the Supreme Court of the State of Arizona has transmitted to this Court the Committee file on Petitioner, which was lodged with the Supreme Court at the time the Committee

filed its Response in SB-47. The facts which Respondents will hereafter allude to are all contained in the four files identified above.

Petitioner has on two occasions failed the bar examination administered by the Committee on Examinations and Admissions of the Supreme Court of Arizona. These examinations were conducted in February, 1973, and July, 1973. After being advised by the Committee that he had failed to receive a satisfactory grade on the February, 1973, examination, Petitioner applied for, was granted permission to write, and did write the July, 1973 bar examination.

After being advised by the Committee that he had failed to receive a satisfactory grade on the July, 1973, bar examination, Petitioner, on October 19, 1973, filed in the Arizona Supreme Court a Petition for Special Action and Order to Show Cause or Alternatively Request for Review Pursuant to Rule 28 (c) (E) (C). On October 30, 1973, after a Response had been filed by the Committee, and after hearing oral argument, the Supreme Court of Arizona refused to accept jurisdiction of the Petition for Special Action and took under advisement the Petition for Review Under Rule 28(c) of the Rules of the Supreme Court of Arizona.

On November 6, 1973, the Supreme Court of Arizona entered a Minute Order, directing the Committee to file a Supplemental Response, "Specifically setting forth the Committee's position on supplying Petitioners with questions and answers on multi-state bar examination and method of grading entire examination." This Response was filed by the Committee on December 6, 1973, and on December 18, 1973 the Supreme Court of Arizona entered the following Order, in cause No. 11339:

"The following Order having been entered by the Supreme Court this date,

"IT IS ORDERED that the Supreme Court Committee on Examinations and Admissions certify to the Supreme Court for admission to the State Bar of Arizona, the names of all applicants not heretofore admitted to practice who have attained passing grades on the Essay and Legal Ethics portions of the bar examination given July 25, 26 and 27, 1973."

Now therefore,

"IT IS ORDERED: Petition for Review by the Supreme Court=DENIED."

Petitioner, on February 15, 1973, filed a Petition for Special Action and Order to Show Cause in the Supreme Court raising essentially the same matters that had been raised in his previous Petition. Petitioner, on February 19, 1973, filed a Petition for Review by the Supreme Court, again raising essentially the same matters as raised in his initial Petition. On March 12, 1974, Orders were entered by the Supreme Court of the State of Arizona denying the relief sought in each of these Petitions.

The July, 1973 bar examination administered by the Committee, was the first bar examination in the State of Arizona in which the multi-state bar examination, sponsored by the National Conference of Bar Examiners, was used. On January 24, 1973, following preliminary discussions by the Committee concerning the use of the multi-state bar examination, a meeting was held between the members of the Committee and the members of the Supreme Court of Arizona to discuss the use of the multi-state bar examination in the State of Arizona. At this meeting detailed

explanations of the examination were presented, and following this meeting the Supreme Court ordered the use of the multi-state bar examination in July, 1973, and so instructed the Committee. At a later meeting between the members of the Committee and the members of the Supreme Court of Arizona, the possible grading systems recommended by the National Conference of Bar Examiners for use in grading the multi-state bar examination were discussed, and the Supreme Court directed the Committee to use the grading system that was, in fact, used in connection with the July, 1973, bar examination. The grading system that was applied to the examination papers of Petitioner was exactly the same as that applied to all other applicants who wrote the July, 1973, examination.

The multi-state bar examination, as administered by the Committee in July, 1973, was corrected by computer by the Educational Testing Service, Princeton, New Jersey. In the bar examination administered by the Committee in July, 1973, three-sevenths (3/7ths) of the examination consisted of the multi-state bar examination, and four-sevenths (4/7ths) consisted of the traditional essay-type examination historically used in Arizona. The grades of the multi-state bar examination and the essay examination were correlated by the use of the Standard Deviation Method. Of the three correlation methods proposed by the National Conference of Bar Examiners, the Standard Deviation Method is the one most highly recommended. The calculations required in the application of the Standard Deviation Method, in connection with the July, 1973, bar examination administered by the Committee, were performed by computer under the supervision of the National Conference of Bar Examiners.

ARGUMENT

The December 18, 1973, Order of the Supreme Court of Arizona, which directed the Committee to, ". . . certify to the Supreme Court for admission to the State Bar of Arizona, the names of all applicants not heretofore admitted to practice who have attained passing grades on the essay and legal ethics portions of the bar examination given July 25, 26, and 27, 1973," resulted in two classes of applicants being admitted: first, those who had obtained a combined grade of 70 or better, when the multi-state bar examination and essay examination grades were correlated; and second, those who had received a grade of 70 or better on the essay portion only. Petitioner did not receive a passing grade using either of these two methods, and his contention at pages 5 and 6 of his Petition, that persons who received lower grades than he have been admitted to practice, is inaccurate and misleading. As stated previously, no applicant who received less than a combined grade of 70 or better, or a grade of 70 or better on the essay portion of the examination, was admitted to practice in the State of Arizona. Petitioner's combined score on the July, 1973, examination was 64.83; and his score on the essay portion only was 69.4, and as is obvious, Petitioner did not fit into either category of those applicants who were admitted. Petitioner argues to this Court that all he wants is, "Equal protection of the laws," but it is submitted that, in fact, he wants unequal treatment in that he is asking this Court to create a new class of applicants, i.e., those who have failed to receive a passing grade by the use of either of the two methods of calculating grades used in connection with the July, 1973, Arizona bar examination.

Petitioner has had due process in connection with the July, 1973, bar examination. Rule 28 (c) XII E of the Rules

of the Supreme Court of Arizona provides for, "Proceedings Upon Failure to Receive Satisfactory Grade." Petitioner proceeded under the cited Rule, and, in fact, his papers were reviewed by the Committee in strict compliance with the "Proceedings Upon Failure to Receive Satisfactory Grade."

Application of Peterson, Alaska, 459 P.2d 703 (1969), cited by Petitioner, is inapplicable to the facts of this case. Petitioner was not furnished any "model answers" by the Committee because, in fact, none existed for the July, 1973, examination or any previous or subsequent examination. The Committee, historically, has not prepared such model answers and, therefore, could not, of course, make them available to Petitioner. The logic of the opinion in *Application of Peterson,* is that inasmuch as model answers had been prepared and used by the Alaska Committee it would be unfair to refuse to allow him to see them and compare them with his answers. In effect, Peterson had been denied any appeal whatsoever from his failure to receive a satisfactory grade. As pointed out previously, such is not the situation of Petitioner in that he was entitled to a review of his papers and, in fact, received such a review.

Petitioner's statement, at Page 16 of his Petition, that, "Often there is no right to appeal a failing grade; no right to review information as to subject areas passed and failed; arbitrary limitation on the number of times one may sit for the examination, and in many instances, one is required to return to law school to take a specified number of subject hours with no indication as to where one's weakness lies; . . .", has absolutely no application to this case, because none of those situations exists in the State of Arizona. Petitioner's contention that, "Great doubt exists, that the examinations are professionally developed by per-

sons expert in techniques of test construction," is without support in this record.

Respondents do not disagree in any way with the holdings in *Willner v. Committee on Character,* 373 U.S. 96 (1963), or *Schware v. Board of Examiners,* 353 U.S. 232 (1957), cited by Petitioner. Again, however, they have no application to the facts of this case. In each of the cited cases, the applicant had passed the bar examination, but was denied admission because of the appropriate committee's refusal to find good character or moral fitness to practice law. Petitioner, in this case, is complaining because he failed to receive a satisfactory grade. To quote from *Application of Peterson, Alaska,* 459 P.2d 703 (1969), at page 706: "Adoption of Appellant's position would, in our view, abolish any semblance of objective criteria and would substitute in its place rather vague and shifting standards, which dramatically increase the probabilities of ad hoc admissions."

If Petitioner's position regarding the grading of the July, 1973, bar examination administered by the Committee is adopted, then every applicant who wrote the examination is entitled to be admitted, regardless of the grade received. Such a holding would deprive the Supreme Court of Arizona of any right to protect prospective clients from incompetent lawyers.

Respondents do not intend to make light of Petitioner's earnest efforts to gain admission to the Bar. In perspective, however, the sad truth of the matter is that Petitioner is unable to demonstrate that he possesses sufficient knowledge of the law to be entitled to be licensed to practice in the State of Arizona and is now seeking admission on the basis of claimed denial of due process and deprivation of equal protection of the law, which the record does not support because neither exists.

CONCLUSION

It is respectfully submitted that Petitioner's claims of denial of due process and deprivation of equal protection of the laws are not well-founded; that there is nothing in the record to support his claims; and that his Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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IN THE

Supreme Court of the United States

October Term, 1974

No. 73-2016

LUIS ARANDA,

Petitioner,

v.

SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA

PETITIONER'S REPLY MEMORANDUM

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Attorneys for Petitioner

IN THE

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PETITIONER'S REPLY MEMORANDUM

Respondents in their opposing brief have not answered the questions raised by Petitioner. On page 5 they allude to

the fact that a meeting was held and a decision reached to administer the Multistate Examination.

The record clearly shows that the Rule 28(c) VI and VIII was not amended until six (6) months after the July 1973 Bar Examination. Rule 28(a) mandates that the "examination and admission of applicants for membership in the State Bar of Arizona shall conform to this rule".

Respondent's deviation of Rule 28 (c) without the proper amendments affects Petitioner's substantive rights in violation of Arizona case law, *State v. Birmingham*, 95 Ariz. 310, 390 P.2d 103 (1964), and is without any rational basis.

Respondent's argument on page seven (7) is without merit because the December 18, 1973 Order can only be interpreted as nullifying the Multistate

Examination and *not* creating different classes. Therefore, with the Multi-state Examination null and void *the Essay must stand by itself*. The record clearly indicates that 21 applicants whose essay scores are below the required 70 and as low as 67.7, are already admitted, but, Petitioner is denied admission for no other reason except that his score is 69.4 and such action in fact creates *unequal* classes without any rational basis, see Appendix A-1 attached hereto and incorporated herein by reference.

Moreover, Respondents admit that no model answers have ever existed. Yet the record reflects that Petitioner requested model answers and/or the standard used to measure the questions and answers to the examination. This Court can only conclude that rather than conforming to accepted principles

of Tests and Measurements, instead, Bar Examination graders relied on a visceral reaction to each answer. Furthermore, there are indeed model answers available to the Multistate Examination, access to which have been denied Petitioner.

As to the grading scheme alluded to by Respondents, Petitioner can only cite a subsequent and similar case as Petitioner's before the Arizona Supreme Court, *Application of Donovan, et al*, (June 1974, SB-53) in the only opinion rendered by the Court, Justice Lockwood wrote in applicable part ". . . I am convinced that the Multi State Examination is not well enough developed to furnish adequate correlation with the State Essay Examination and should be discontinued until it is better adjusted." Also, the grading scheme is inconsistent with State law Rule 28(c)

VIII, Appendix A9 of Petition for Writ.

Respondents would have the restraints of the 14th Amendment limited only to cases involving issues of good character and moral fitness and such a position is untenable.

If Respondent's position is adopted indeed the July 1973 Bar Examination would remain without any semblance of objective criteria. By Respondents' own admissions on page 7 and 8 of the opposing brief, the July 1973 Bar Examination consisted of vague and shifting standards in violations of their own Rules, Rule 28(c) to which Respondents are bound to follow as a matter of law, Rule 28(a) and *Justice v. Board of Education*, 351 F.2d 1252.

Petitioner has the highest respect for the obligations of the Court below to regulate the admission of lawyers to the Arizona Bar. In perspective, however,

the sad truth of the matter is that Respondents have failed to demonstrate the rational basis for deviating from their own rules, State law and denial of due process and equal protection of the laws of Arizona to Petitioner.

In light of the inability of Respondents to face the issues presented in the Petition by merely glossing over significant facts, the need for plenary review of the action below is indisputable. Indeed Petitioner suggests that summary reversal is now in order.

Respectfully submitted,

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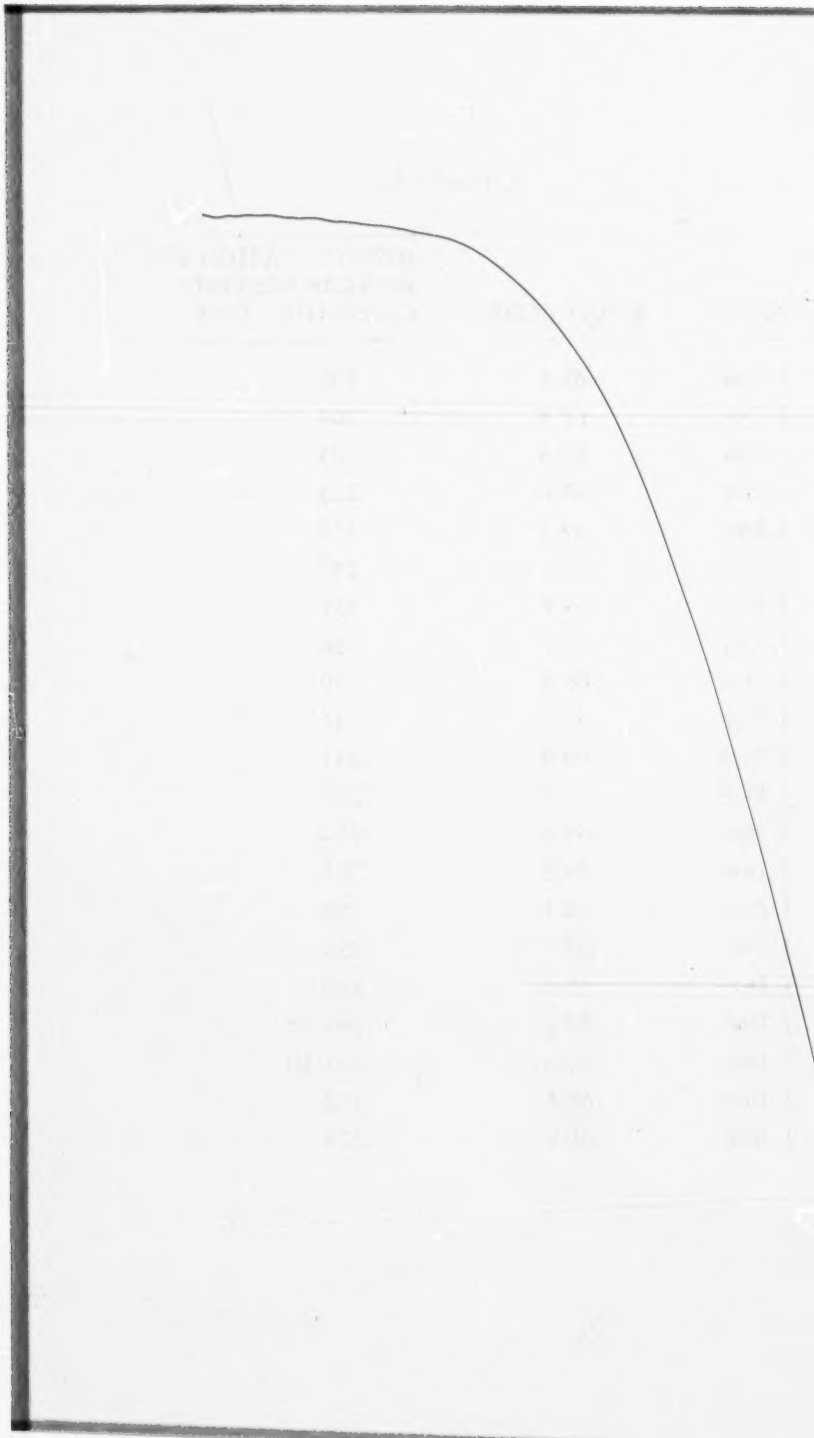
August, 1974

Appendix A-1

NAME	ESSAY SCORE	IDENTIFICATION BY RANK IN TESTING CLASS JULY 1973
J. Doe	69.1	195
J. Doe	69.8	204
J. Doe	69.6	205
J. Doe	68.6	223
J. Doe	69.1	226
J. Doe	69.1	232
J. Doe	69.8	237
J. Doe	67.7	238
J. Doe	69.8	239
J. Doe	68.5	244
J. Doe	69.9	251
J. Doe	69.4	253
J. Doe	69.8	254
J. Doe	69.2	255
J. Doe	68.1	258
J. Doe	69.4	259
J. Doe	69.5	260
J. Doe	69.6	261.50
J. Doe	69.6	261.50
J. Doe	68.1	272
J. Doe	69.9	275



CERTIFICATE OF SERVICE

STATE OF ARIZONA)
) ss.
County of Maricopa)

I hereby certify that on this 21st day of August, 1974, three copies of the Petitioner's Reply Memorandum were mailed, postage prepaid, to Donald Daughton, 1840 First National Bank Plaza, 100 West Washington Street, Phoenix, Arizona 85003, Counsel for Respondents and to Warner Lee, The Attorney General, State of Arizona, Room 159 State Capitol Building, 1700 West Washington Street, Phoenix, Arizona 85007. I further certify that all parties required to be served have been served.

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